

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN OPTIONAL METHOD OF COMPLYING WITH DRIVING REQUIREMENTS PURSUANT TO AN INSTRUCTION PERMIT OR TRAFFIC EDUCATION LEARNER LICENSE; PROVIDING THAT A DRIVER'S EDUCATION LEARNING PERMIT MAY BE ISSUED TO PERSONS 14 1/2 YEARS OF AGE OR OLDER; PROVIDING THAT STUDENT INSTRUCTION MAY BE PROVIDED BY A CERTIFIED PARENT, GRANDPARENT, OR LEGAL GUARDIAN; PROVIDING REQUIREMENTS FOR CERTIFICATION OF A PARENT, GRANDPARENT, OR LEGAL GUARDIAN; PROVIDING REQUIREMENTS FOR THE DURATION OF INSTRUCTION; AUTHORIZING THE ADOPTION OF RULES; AND AMENDING SECTIONS 61-5-105, 61-5-106, 61-5-107, AND 61-5-125, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-5-105, MCA, is amended to read:

"61-5-105. Who may not be licensed. The department may not issue a license under this chapter to a person:

(1) who is under 16 years of age unless:

(a) the person is at least 15 years of age and:

(i) has passed a driver's education course approved by the department and the superintendent of public instruction; or

(ii) has complied with the requirements of 61-5-106(7); or

(b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license;

(2) whose license or driving privilege is currently suspended, revoked, or canceled or who is disqualified from operating a commercial motor vehicle in this or any state, as evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309;

(3) who is addicted to the use of alcohol or narcotic drugs;

(4) who has previously been adjudged to be afflicted with or suffering from any mental disability or

disease and who, at the time of application, has not been restored to competency by the methods provided by law;

(5) who is required by this chapter to take an examination;

(6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title;

(7) who has any condition characterized by lapse of consciousness or control, either temporary or prolonged, that is or may become chronic. However, the department may in its discretion issue a license to an otherwise qualified person suffering from a condition if the afflicted person's attending physician attests in writing that the person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a commercial motor vehicle under applicable state or federal regulations;

(8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate a motor vehicle on the highway;

(9) who is not a resident of or domiciled in Montana except as provided in 61-5-103(3); or

(10) who does not submit proof satisfactory to the department that the applicant's presence in the United States is authorized under federal law. The department may not accept as a primary source of identification a driver's license issued by a state if the state does not require that a driver licensed in that state be lawfully present in the United States under federal law."

Section 2. Section 61-5-106, MCA, is amended to read:

"61-5-106. Instruction permits -- traffic education learner licenses and permits -- temporary licenses. (1) (a) The department may issue an instruction permit, which is valid for 1 year from the date of issuance, to a person satisfying the age requirements specified in 61-5-105(1) after the applicant has successfully passed the knowledge test and the vision examination, as provided in 61-5-110. Except as provided in subsections (1)(b), ~~and (1)(c), and (7)~~, an instruction permit entitles the permitholder, while in immediate possession of the permit and accompanied by a licensed driver seated beside the permitholder, to drive a motor vehicle other than a motorcycle upon the public highways.

(b) If the permitholder is under 18 years of age, the driver supervising the permitholder must be a parent or a legal guardian of the permitholder or, with the permission of the permitholder's parent or legal guardian, a licensed driver 18 years of age or older. Each occupant of a motor vehicle driven by a permitholder who is under

1 18 years of age shall wear a properly adjusted and fastened seatbelt or, if 61-9-420 applies, must be properly
2 restrained in a child safety restraint.

3 (c) A person holding an instruction permit for a motorcycle may drive a motorcycle upon a public highway
4 if the person is not carrying a passenger, has immediate possession of the permit, and is under the immediate
5 and proximate visual supervision of one of the following persons, who must be at least 18 years of age if the
6 permitholder is under 18 years of age:

7 (i) a motorcycle-endorsed licensed driver who is riding with the permitholder and who is operating a
8 separate motorcycle or other motor vehicle; or

9 (ii) a licensed driver who is operating a separate motor vehicle if the permitholder has successfully
10 completed a motorcycle safety training course through a cooperative driver testing program certified under
11 61-5-110.

12 (2) ~~The~~ Except as provided in subsection (7), the department may issue a traffic education learner
13 license, which is valid for 1 year from the date of issuance, to any person who is at least 14 1/2 years of age and
14 who has successfully completed or is successfully participating in a traffic education course approved by the
15 department and the superintendent of public instruction and that is available to all who meet the age requirements
16 specified in 20-7-503 and reside within the geographical boundaries of or attend a school in the school district
17 that offers the course. A traffic education learner license entitles the licensee to operate a motor vehicle only
18 when accompanied by an approved instructor or licensed parent or guardian and may be restricted to specific
19 times or areas.

20 (3) (a) An instructor of a traffic education program approved by the department and by the superintendent
21 of public instruction may issue a traffic education permit that is effective for a school year or more restricted period
22 to an applicant who is enrolled in a traffic education program approved by the department and who meets the age
23 requirements specified in 20-7-503.

24 (b) When in immediate possession of the traffic education permit, the permittee may operate on a
25 designated highway or within a designated area:

26 (i) a motor vehicle when an approved instructor is seated beside the permittee; or

27 (ii) a motorcycle or quadricycle when under the immediate and proximate supervision of an approved
28 instructor.

29 (4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's
30 license permitting the applicant to operate a motor vehicle while the department is completing its investigation

1 and determination of all facts relative to the applicant's right to receive a driver's license. The temporary driver's
2 permit must be in the permittee's immediate possession while operating a motor vehicle, and it is invalid when
3 the applicant's license has been issued or for good cause has been refused.

4 (5) The department may in its discretion issue a temporary commercial driver's license to an applicant
5 permitting the applicant to operate a commercial motor vehicle while the department is completing its investigation
6 and determination of all facts relative to the applicant's right to receive a commercial driver's license. The
7 temporary license must be in the applicant's immediate possession while operating a commercial motor vehicle
8 and is invalid when the applicant's license has been issued or for good cause has been refused.

9 (6) The department may in its discretion issue a temporary medical assessment and rehabilitation driving
10 permit, as provided in 61-5-120.

11 (7) (a) The department may issue a 6-month driver's education learning permit to a person who is at least
12 14 1/2 years of age if the student has registered with the county superintendent of the county in which the student
13 lives. The student may operate a motor vehicle using the driver's education learning permit only when the student
14 is under the direct supervision of a parent, grandparent, or legal guardian who is certified and whose name is on
15 the learning permit.

16 (b) In order to be certified as an instructor for a driver's education learning permit, the student's parent,
17 grandparent, or legal guardian:

18 (i) must be a currently licensed driver;

19 (ii) may not have accumulated 5 or more habitual traffic offender points under 61-11-203 within the
20 36-month period preceding certification;

21 (iii) (A) must have passed the knowledge test and the road test or skills test, as provided in 61-5-110,
22 within the 12-month period preceding certification; or

23 (B) must possess a current commercial driver's license; and

24 (iv) shall pay a \$25 certification fee, which the department shall deposit in the general fund, after the
25 department verifies that each instructor:

26 (A) has complied with subsections (7)(b)(i) through (7)(b)(iii);

27 (B) has provided a sample of the driver's education curricula to be used; and

28 (C) has vehicle liability insurance that covers the student.

29 (c) The training period for a student receiving a driver's education learning permit pursuant to subsection
30 (7)(a) is renewable in 6-month increments until a parent, grandparent, or legal guardian is satisfied as to the

1 student's driving proficiency. A student receiving a permit shall maintain a log signed and dated by the certified
2 supervising parent, grandparent, or legal guardian. The log must indicate that the student has driven under direct
3 supervision on a roadway, as follows:

4 (i) for a minimum of 6 months of the training period, which are not required to be consecutive;

5 (ii) 10 hours each month or 500 miles each month;

6 (iii) at least 60 hours or 3,000 miles during the training period;

7 (iv) in urban areas for at least 15 hours of the total time; and

8 (v) during hours of darkness for at least 6 hours of the total time."

9
10 **Section 3.** Section 61-5-107, MCA, is amended to read:

11 **"61-5-107. Application for license, instruction permit, or motorcycle endorsement.** (1) Each
12 application for an instruction permit, driver's license, commercial driver's license, or motorcycle endorsement must
13 be made upon a form furnished by the department. Each application must be accompanied by the proper fee,
14 and payment of the fee entitles the applicant to not more than three attempts to pass the examination within a
15 period of 6 months from the date of application. A voter registration form for mail registration as prescribed by the
16 secretary of state must be attached to each driver's license application. If the applicant wishes to register to vote,
17 the department shall accept the registration and forward the form to the election administrator.

18 (2) Each application must include the full legal name, date of birth, sex, residence address of the
19 applicant [and the applicant's social security number], must include a brief description of the applicant, and must
20 provide the following additional information:

21 (a) the name of each jurisdiction in which the applicant has previously been licensed to drive any type
22 of motor vehicle during the 10-year period immediately preceding the date of the application;

23 (b) a certification from the applicant that the applicant is not currently subject to a suspension, revocation,
24 cancellation, disqualification, or withdrawal of a previously issued driver's license or any driving privileges in
25 another jurisdiction and that the applicant does not have a driver's license from another jurisdiction;

26 (c) a brief description of any physical or mental disability, limitation, or condition that impairs or may
27 impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle
28 on the highway;

29 (d) a brief description of any adaptive equipment or operational restrictions that the applicant relies upon
30 or intends to rely upon to attain the ability to exercise ordinary and reasonable control in the safe operation of a

1 motor vehicle on the highway, including the nature of the equipment or restrictions; and

2 (e) if the applicant is a foreign national whose presence in the United States is temporarily authorized
3 under federal law, the expiration date of the official document issued to the applicant by the bureau of citizenship
4 and immigration services of the department of homeland security authorizing the applicant's presence in the
5 United States.

6 [(3) The department shall keep the applicant's social security number from this source confidential,
7 except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise permitted
8 by state law administered by the department and may be provided to the department of public health and human
9 services for use in administering Title IV-D of the Social Security Act.]

10 (4) (a) When an application is received from an applicant who is not ineligible for licensure under
11 61-5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the
12 applicant's driving record from each jurisdiction in which the applicant was licensed in the preceding 10-year
13 period. The driving record may be transmitted manually or by electronic medium.

14 (b) When received, the driving records must be appended to the driver's record created and maintained
15 in this state. The department may rely on information contained in driving records received under this section to
16 determine the appropriate action to be taken against the applicant upon subsequent receipt of a report of a
17 conviction or other conduct requiring suspension or revocation of a driver's license under state law.

18 (5) An individual who is under 26 years of age but at least 15 years of age and who is required to register
19 in compliance with the federal Military Selective Service Act, 50 App. U.S.C. 453, must be provided an opportunity
20 to fulfill those registration requirements in conjunction with an application for an instruction permit, driver's license,
21 commercial driver's license, or state identification card. If under 18 years of age but at least 15 years of age, an
22 individual must be provided an opportunity to be registered by the selective service system upon attaining 18
23 years of age. Any registration information supplied on the application must be transmitted by the department to
24 the selective service system.

25 (6) An application for a driver's education learning permit under 61-5-106(7) must include the name of
26 the certified parent, grandparent, or legal guardian who will supervise the student. (Bracketed language
27 terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

28
29 **Section 4.** Section 61-5-125, MCA, is amended to read:

30 **"61-5-125. Authority of department -- rulemaking authority.** (1) The department shall administer and

1 enforce the provisions of this chapter.

2 (2) The department shall adopt rules setting standards to govern driver's license examinations and
3 reexaminations. The rules:

4 (a) must specifically address the functional abilities and skills required for a person to exercise ordinary
5 and reasonable control in the safe operation of a motor vehicle on a highway;

6 (b) must include minimum uncorrected or corrected visual acuity requirements for both unrestricted and
7 restricted licensure and may include minimum field of vision and depth perception requirements and hearing
8 requirements for unrestricted and restricted licensure;

9 (c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability
10 to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway. A skills test
11 may consist of:

12 (i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration
13 of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

14 (ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the
15 department, as related to a specific physical or mental condition or conditions or a request for reexamination;

16 (d) must include operational restrictions based upon the visual acuity of an applicant or licensee;

17 (e) may take into consideration any nationally recognized standards or recommended practices for
18 assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor
19 vehicle on the highway;

20 (f) must include appropriate licensing criteria relating to the use of adaptive equipment or operational
21 limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction;

22 (g) may be derived from medical guidelines and information compiled by driver licensing medical
23 advisory or review boards from other jurisdictions, as well as information received from advocacy groups for
24 persons with disabilities and senior citizens; and

25 (h) except as provided in 61-5-105, may not use a person's age or physical or mental disability, limitation,
26 or condition as a justification for denial of a license.

27 (3) The department may adopt additional rules governing:

28 (a) acceptable methods of proof of identification that must be supplied by a person upon application for
29 or renewal of a driver's license;

30 (b) issuance of a hardship license to an underage applicant;

1 (c) the cancellation of a driver's license upon receipt of an insufficient funds check in payment of license
2 fees;

3 (d) circumstances under which the department may issue a probationary license to a person whose
4 license has been suspended or revoked or a person whose license is subject to a discretionary suspension or
5 revocation;

6 (e) restrictions to be imposed upon a probationary license;

7 (f) renewal of a driver's license by a person in the military assigned to active duty who had a valid
8 Montana driver's license at the time of entering active duty;

9 (g) issuance of a replacement driver's license; and

10 (h) a determination of the driver's license expiration date, minimum and maximum license terms, and
11 license renewal requirements for a driver's license issued to a person who is a foreign national whose presence
12 in the United States is temporarily authorized under federal law.

13 (4) (a) The department shall adopt rules to implement 61-5-106(7) and shall require a student who is
14 issued a driver's education learning permit under 61-5-106(7) to keep a certified log book in which the student
15 records hours driven, miles driven, time spent driving in urban areas, and time spent driving during hours of
16 darkness. The rules may not be more restrictive than those adopted to govern other driver's education programs
17 and learning permits.

18 (b) The learning permit must contain the name of the supervising parent, grandparent, or legal guardian
19 who completed the requirements for certification as a supervising instructor."

20 - END -